



Second Session - Thirty-Sixth Legislature

of the

Legislative Assembly of Manitoba

Standing Committee

on

Law Amendments

Chairperson
Mr. David Newman
Constituency of Riel



Vol. XLVI No. 3 - 7:30 p.m., Monday, October 7, 1996

MANITOBA LEGISLATIVE ASSEMBLY
Thirty-Sixth Legislature

Members, Constituencies and Political Affiliation

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LAMOUREUX, Kevin	Inkster	Lib.
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**LEGISLATIVE ASSEMBLY OF MANITOBA
THE STANDING COMMITTEE ON LAW AMENDMENTS**

Monday, October 7, 1996

TIME – 7:30 p.m.

Bill 38–The Health Services Insurance Amendment Act (2)

LOCATION – Winnipeg, Manitoba

Bill 300–The Salvation Army Catherine Booth Bible College Incorporation Amendment Act

CHAIRPERSON – Mr. David Newman (Riel)

ATTENDANCE - 10 – QUORUM - 6

Members of the Committee present:

Mr. Chairperson: Good evening. Will the Standing Committee on Law Amendments please come to order.

Hon. Messrs. Findlay, McCrae

Messrs. Chomiak, Dyck, Jennissen, Laurendeau, Newman, Radcliffe, Robinson, Tweed

This evening, the committee will be considering a number of bills, those being Bill 8, The Chiropractors Amendment Act; Bill 9, The Public Health Amendment Act; Bill 10, The Pharmaceutical Amendment Act; Bill 13, The Highway Traffic Amendment (Lighting on Agricultural Equipment) Act; Bill 20, The Highway Traffic Amendment (Miscellaneous Provisions) Act; Bill 38, The Health Services Insurance Amendment Act (2); and Bill 300, The Salvation Army Catherine Booth Bible College Incorporation Amendment Act.

APPEARING:

Ms. Valine Perry, Legislative Counsel

WITNESSES:

Bill 8–The Chiropractors Amendment Act

Mr. Martin Colledge, President, Manitoba Association of Chiropractors

Bill 10–The Pharmaceutical Amendment Act

Ms. Vera Chernecki, Manitoba Nurses' Union
Ms. Maureen Hancharyk, Private Citizen

To date, we have had a number of presenters register to speak to the bills referred for this evening. I will now read aloud the names of the persons who have preregistered to all of the bills: Vera Chernecki, Manitoba Nurses' Union; Maureen Hancharyk, private citizen, both with respect to Bill 10, The Pharmaceutical Amendment Act; and with respect to Bill 8, The Chiropractors Amendment Act, Dr. Colledge, the president of the Manitoba Association of Chiropractors, is registered to speak.

MATTERS UNDER DISCUSSION:

Bill 8–The Chiropractors Amendment Act

Bill 9–The Public Health Amendment Act

Bill 10–The Pharmaceutical Amendment Act

Bill 13–The Highway Traffic Amendment (Lighting on Agricultural Equipment) Act

Bill 20–The Highway Traffic Amendment (Miscellaneous Provisions) Act

If there are any other persons in attendance tonight who would like to speak to one of the bills referred to the committee and whose name has not been read, that is, does not appear on the list of presenters, please register with the Chamber Branch personnel at the table at the rear of the room, and your name will be added to the list.

In addition, I would like to remind those presenters wishing to hand out written copies of their briefs to the committee, that 15 copies are required. If assistance in making the required number of copies is needed, please contact either the Chamber Branch personnel or the Clerk Assistant, and the copies will be made for you.

In what order shall the bills be considered by the committee for the purpose of hearing presenters? What is the wish of the committee?

An Honourable Member: Eight and ten. There are no out-of-town presenters, so eight and ten.

Mr. Chairperson: Agreed? [agreed] Did the committee wish to establish any time limit on the presentations heard this evening? A reasonable time limit? [agreed]

Bill 8—The Chiropodists Amendment Act

Mr. Chairperson: We will then proceed with Bill 8, The Chiropodists Amendment Act. Would our first presenter please come forward, and that would be Dr. Colledge, the president of the Manitoba Association of Chiropodists.

Do you have written copies of your brief? Yes, you do, and they are now being circulated. You may now proceed with your presentation, doctor.

Mr. Martin Colledge (Manitoba Association of Chiropodists): I think this is going to probably be one of your briefer presentations.

Basically, the reason that the association feels this act's amendment is important is because for a number of years we have been frustrated by restrictions from the existing act, which has not been substantially amended for over 50 years. The main concern we have is that we are unable to work with our patients in a humane way in that we are not allowed access to the use of local anesthesia, so the patients who present with potentially painful problems either have to suffer, or we are actually not able to perform some of the procedures on them that are required.

I use the term "podiatrist" because the term "chiropodist" is pretty well out of use throughout most of the western world. Podiatrists have been trained in the use of local anesthesia, and they have used it in their daily practice in virtually every region of the western world, the English-speaking western world, for 10 to 15 years, minimum, and Manitoba is one of the few areas where the law prevents this. Seventy-five percent of our members are trained in their undergraduate training in the use of local anesthesia and procedures that involve that.

Unfortunately, at the moment, we are not allowed to do these procedures because of the existing restrictions.

We did spend some time in consultation with the College of Physicians and Surgeons and the Health department trying to find alternative ways around this problem which would not involve changing the act, but in the end, seeing that there was not any way around this, the only way that we were going to be able to use local anesthesia was to have an amendment made.

So there has been a lot of consultation with the college, and they are certainly in support of the way that we approach doing this and the Health department, too, so the amendment came about.

In terms of things that need to be done, obviously, the act itself has to be revised. In addition to that, there will be required the creation of regulations pertaining to the safe use of the local anesthesia, and in addition to that, the association has already agreed and voted among its membership to have a mandatory remedial course which we are planning to be provided by the Ontario College of Chiropodists. This is simply because, for example, in my own case, I have practised here for nine years, and although I am trained in these procedures, I have not been able to put them into practice, and the same holds for most of us, so this seemed like a reasonable way to really just make sure that everybody is up to date with current techniques.

I think that is pretty much what I have to say.

Mr. Chairperson: Thank you very much, Dr. Colledge. Do members of the committee have any questions they wish to address?

Mr. Dave Chomiak (Kildonan): Yes, thank you, Dr. Colledge. As we have indicated, we are in agreement with this amendment.

You did raise the issue of podiatrist versus chiropodist. What is the distinction, and why would we not be changing this act to call it The Podiatrists Act and not the Chiropodists Act?

Mr. Colledge: I think the intention is not to change the title at this stage. The education in Britain and the U.S., Australia, South Africa and New Zealand currently refers

to podiatry. My degree is in podiatric medicine, and the term "chiroprody" originally developed in Britain, probably around the turn of the century when practitioners treated feet and hands, and we have long since not treated hands at all. The term "podiatry" was coined in the States, I think in the late '50s and '60s. It has been adopted there. It has pretty well been adopted in most of the rest of the world.

There are a few exceptions; Ontario is one. If you want me to go into details of that, I will, but as far as Canada is concerned, in the western provinces, podiatry is used. In Quebec, podiatry is used. It is Manitoba and Ontario that are the exception there. So the terms are regarded as synonymous, but podiatry is probably a more accurate reflection of what we do.

Mr. Chairperson: Thank you. Any other questions for Dr. Colledge? If not, we thank you very much for appearing before us.

* (1940)

Bill 10—The Pharmaceutical Amendment Act

Mr. Chairperson: We will go with Bill 10 and the presenters. This is The Pharmaceutical Amendment Act, and Vera Chernecki, the Manitoba Nurses' Union, please come forward.

Ms. Vera Chernecki (Manitoba Nurses' Union): Good evening.

Mr. Chairperson: Just one moment, Ms. Chernecki, we will have the copies of your brief submitted.

You may now begin with your presentation.

Ms. Chernecki: First of all, I want to thank you for the opportunity to present our concerns regarding Bill 10.

Just for a little background information, the Manitoba Nurses' Union represents approximately 11,000 nurses, and those are registered nurses, licensed practical nurses, psychiatric nurses and operating room technicians that are in our membership.

Nurses have been extremely worried over several pieces of legislation that are currently being debated and

which negatively affect the health care system. We are wondering what Bill 10 is going to do to the health care system.

This legislation, like Bill 49, The Regional Health Authorities Act, gives the Minister of Health greater control over the health care system, we feel. Bill 10 amends two sections of The Pharmaceutical Act to substitute the words "Lieutenant-Governor-in-Council" with the word "minister." We are able to witness a growth in discretionary power of the government and a lessening of public accountability.

The amended sections of the act deal with the responsibility for pharmaceutical regulation procedures. The minister will have control over regulations governing interchangeable drugs in Manitoba. How Bill 10 will affect the availability of affordable prescription drugs, particularly generic alternatives, consumer choice and pharmaceutical products, the future viability of the Pharmacare program or the cost of employee benefits is unknown.

The main point is that Bill 10 will make the government less accountable to the public. Under current practice, powers exercised under Sections 78 and 79 of the act are published as Orders-in-Council. In the future, changes to regulations under The Pharmaceutical Act can be made by the Health minister alone, and we question why this change is necessary.

We do have reason to be concerned about the government's intent. In the words of Minister McCrae, this amendment will complement similar changes in 1994 to The Prescription Drugs Cost Assistance Act.

Since it came to power, this government has consistently reduced Pharmacare coverage for prescription drug costs, and we have listed what those have been. Then, 10 days before the plan was going to come into effect, the government announced the co-insurance system was basically dismantled for the majority of Manitobans and the cost for drugs was going to rise for virtually everyone. Senior citizens living below the poverty line saw an increase in their deductible of over 100 percent. For poor families with dependent children, Pharmacare costs rose in the range of 160 percent.

We then learned in the media on October 2 that the sudden awareness among the chronically ill, in particular, that their drug costs were about to skyrocket caused a slight problem. Cutting Pharmacare coverage was supposed to save \$20 million a year. These savings evaporated because people rushed to purchase their necessary medication before the Pharmacare program was gutted in April 1996.

This legislation further contributes to secrecy and the behind-closed-doors approach the Health ministry has to changes in Manitoba's health care. Nurses are all too familiar with the sense that the axe is there, but when and where it will fall is anyone's guess. What is the government's intent in asking for this amendment to pass? Will public access to needed prescription medicines be further reduced? The government should be accountable for its policies, at least to the degree that changes are publicized in the Gazette.

Our proposal is that the Manitoba Nurses' Union wishes to see Bill 10 withdrawn.

Mr. Chairperson: Thank you for that presentation. Are there questions from members of the committee? There being no questions, I would then thank you for your presentation.

I would like to call on Maureen Hancharyk, private citizen. She does not answer the call, and I once again canvass as to whether or not there are any other people in the room who wish to make presentations with respect to any of the bills this evening.

Bill 8—The Chiropractors Amendment Act

Mr. Chairperson: There being none, we will now proceed with Bill 8, The Chiropractors Amendment Act. Does the minister responsible have a brief opening statement?

Hon. James McCrae (Minister of Health): I believe the bill, along with the presentation made by Dr. Colledge, put the matters appropriately before the committee, Mr. Chairman.

Mr. Chairperson: Does the critic from the official opposition have a brief opening statement?

Mr. Dave Chomiak (Kildonan): Yes, Mr. Chairperson. Just in brief, we have canvassed affected individuals, and we are satisfied that this is a positive step. Given the comments of Dr. Colledge, I believe that the chiropractors ought to be allowed the opportunity to practise to the level of their training, I think—indicates that we are in approval of the amendments and have no difficulty in the passage of this bill at this time.

Mr. Chairperson: In that case, thank you for that. Did the committee wish to proceed with clause by clause of this particular bill?

An Honourable Member: Groups of clauses.

Mr. Chairperson: Groups of clauses, fine.

Clauses 1 through 2 inclusive—pass; Clauses 3 through 4 inclusive—pass; Clauses 5 through 8 inclusive—pass; Clause 9—pass; Preamble—pass; Title—pass. Bill be reported.

Bill 9—The Public Health Amendment Act

Mr. Chairperson: We will now proceed with Bill 9, The Public Health Amendment Act. Does the minister responsible have a brief opening statement?

Hon. James McCrae (Minister of Health): Mr. Chairman, I believe the comments I made at second reading of Bill 9 should suffice with respect to having the matter before the committee unless there are issues raised by honourable members.

Mr. Chairperson: I thank the minister. Does the critic from the official opposition have a brief opening statement?

Mr. Dave Chomiak (Kildonan): Yes, Mr. Chairperson. I think we also indicated in the House that we did not have any difficulty, in fact, because of the significance of public health to the welfare of Manitobans.

Insofar as public health is one of the main factors that has contributed to the quality of life and to the improvement of health care in this country in the last hundred years, we certainly agree with rigorous enforce-

ment of the legislation and a move towards making the penalties more in line with the gravity of the offences. We also indicated during second reading that we did have several questions in regard to the act to the minister, which we will be posing during the course of this committee hearing.

* (1950)

Mr. Chairperson: Thank you, Mr. Chomiak. Once again, do you wish to proceed on a block basis? Clauses 1 through 2 on the first page.

Mr. Chomiak: Mr. Chairperson, it is our assumption that the movement of the penalty from \$500 to \$5,000 is in order to more rigorously enforce the provisions of the act. Is that generally the view of the department?

Mr. McCrae: It is the intention to, through our legislation, send a signal to those people imposing penalties on people who break the rules with respect to our health that the Legislature of this province, elected by the people of Manitoba, view infractions of our health laws very seriously, thereby improving, hopefully, enforcement of our health laws.

Mr. Chomiak: Mr. Chairperson, does the minister have any statistics or figures on the number of prosecutions or violations under the act?

Mr. McCrae: I do not have statistics like that with me. If the honourable member wants that kind of information, we can certainly provide it to him.

Mr. Chomiak: Mr. Chairperson, has it been the minister's experience that the low level of penalties has been a detriment to the enforcement of the act?

Mr. McCrae: Without the benefit of those numbers, it is hard to be definitive, Mr. Chairman, but I can tell you that, if a law becomes dated because of the way inflation works over the years and people who break the law are subjected only to penalties envisioned years and years ago, certainly they would become scofflaws if we did not do something about it. That is why we need amendments like this to bring the sanctions available to us up to date with what might today be seen as an appropriate deterrent.

Mr. Chomiak: Mr. Chairperson, just for clarification, did the minister indicate he would undertake to get new statistics on the prosecutions under the act?

Mr. McCrae: That would be my intention if that is what the honourable member is asking for, and I think it is.

Mr. Chomiak: I thank the minister for that. Just one other question, one of the sections being amended is 33(4), and I am quite curious about this section. Maybe the minister can explain it to me. It is: "Every person who sells either publicly or privately any biological product that has been supplied to him free of charge by or through the minister is guilty of an offence." Can the minister explain that provision to me?

Mr. McCrae: Mr. Chairman, the intent here is not to be making profits on vaccines and products made available to physicians and others by Manitoba Health. If they turn around and try to levy charges for that, that would be an unconscionable user fees, and we are just against that sort of thing.

Mr. Chairperson: No further questions? That being so, Clauses 1 through 2, on the first page, of Bill 9—pass; second page, Clauses 3 and 4—pass; Preamble—pass; Title—pass. Bill be reported.

Bill 10—The Pharmaceutical Amendment Act

Mr. Chairperson: Bill 10, The Pharmaceutical Amendment Act, does the minister responsible have a brief opening statement?

Hon. James McCrae (Minister of Health): Mr. Chairman, I think The Pharmaceutical Amendment Act before us is here to bring it into the practices therein in conformity with The Prescription Drugs Cost Assistance Act, which has already been the subject of approval by this Legislature. That would be basically my comments.

Mr. Chairperson: Does the critic from the official opposition have a brief opening statement?

Mr. Dave Chomiak (Kildonan): Yes, thank you, Mr. Chairperson. We indicated in the House that we were opposed to this amendment for a variety of reasons, and they were, I think, very well articulated by the president of the Manitoba Nurses' Union with respect to our

concerns regarding this act. The amendment itself is small, and I agree that the amendment brings the act in line with the former amendments to The Prescription Drugs Act, but, frankly, if I had my way, I would have not had those amendments passed, as well.

Without belabouring the point, I wish to again emphasize that our opposition to this is the movement towards an executive style of government and a lack of accountability. As it now exists, the amendments and the changes made to the formulary are at least published as Orders-in-Council in the regulations. We do not have any access—if these amendments pass, we have no guarantee whatsoever that we will have access to that kind of information in changes. We have already seen the dramatic changes that were made to the pharmacy act and, literally, the destruction of the former program. Now we are being faced with an amendment which in and of itself, perhaps, would not be cause for alarm except that it exhibits a pattern that we have seen over and over again, not just in health legislation, but throughout the government in terms of all sorts of legislation with the government taking executive powers into cabinet or into the hands of the minister to the exclusion of not just the Legislature but to the public at large. We in principle cannot support an amendment that does that.

I do not want to repeat the speech that we made at the second reading of the bill. I think that the comments of the presenter articulated our concerns as well, and we are certainly opposed to this particular amendment.

Mr. McCrae: Mr. Chairman, just very briefly. I can respect the honourable member's position, and feel that he arrives at his position perhaps on grounds which, to him, are legitimate, and on that basis I think we might just proceed. I just say, however, that The Regulations Act requires that a regulation, regardless of whether it is made by the Lieutenant-Governor-in-Council or a group of ministers or a single minister, must be published unless the statute under which it is made states that it is not subject to The Regulations Act or publication is dispensed with by the Lieutenant-Governor-in-Council or in certain circumstances by the registrar of regulations. Such dispensation is done under The Regulations Act. The fact that the authority to make the regulation is transferred to the minister does not exempt the regulation from the publication provisions of The Regulations Act. So there is notice that must be published.

But I think what the honourable member and I disagree on is the fact that we do not need to put the whole body of the regulation, just the fact that there is a change being made, and I think that makes some sense in this day and age. In no way it takes anything away from the accountability of the minister and/or the government.

Mr. Chomiak: I thank the minister for that, and I agree that it is required to be published in The Regulations Act under regulation, and regulations, as you, Mr. Chairperson, are well aware, are not exactly the most accessible, the most widely read documentation in the province of Manitoba.

But, more importantly, on a practical matter, we are going to have to agree to disagree because, in fact, the changes that were made previously to both The Pharmaceutical Act and The Prescription Drugs Act, the first recognition of those changes was always through the Order-in-Council that came through, and it allowed both us and the public to have access to those changes quickly and with some knowledge, and we will be precluded from that. Notwithstanding that the regulations will be published, we will be precluded from that by virtue of this amendment.

* (2000)

Mr. Chairperson: That is a rebuttal, I hope the end of the debate at this time.

Shall Clauses 1 through 3 pass on the first page?

Some Honourable Members: Pass.

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

An Honourable Member: Nay.

Mr. Chairperson: The Yeas have it.

* * *

Mr. Chomiak: A counted vote, Mr. Chairperson.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 3.

Mr. Chairperson: It passes on a vote of six to three.

Preamble—pass; Title—pass. Bill be reported.

Mr. Marcel Laurendeau (St. Norbert): Mr. Chairman, I might request that we move on to Bill 38, so that the Minister of Health (Mr. McCrae) can remain with his staff at this time.

Mr. Chairperson: Is that agreed? [agreed]

Bill 38—The Health Services Insurance Amendment Act (2)

Mr. Chairperson: Does the minister responsible have a brief opening statement?

Hon. James McCrae (Minister of Health): Mr. Chairman, yes, I have a very significant opening statement to make. I see all my colleagues are waiting with anticipation for that statement.

Basically, I believe my comments at second reading on June 4 should suffice for the purposes of our deliberations.

Mr. Chairperson: Does the critic from the official opposition party have an opening statement?

Mr. Dave Chomiak (Kildonan): Yes, Mr. Chairperson. I just want to indicate that we have some problems with some of the amendments in this bill as well, and I just want to thank the minister. Today the minister provided me the spreadsheet and a description of some of the changes that I had indicated, we had indicated, in our second reading debate, some concerns we had about the bill, and the minister provided me some explanation. I thank him for that.

I also indicated that they also served to raise with us a series of additional questions that we are going to have to the minister about some of these amendments and some concerns that we have with regard to some of these amendments.

Mr. Chairperson: Clauses 1 and 2(1).

Mr. Chomiak: The minister indicated in the spreadsheet that the authorized charges I believe—well, perhaps the minister can explain, see if I understand this correctly—the authorized charges are as a result of a need to allow for the changes made, allow for charges to be made to persons who are in personal care, essentially, which the previous provision in the act does not contain. Is that a correct assumption?

Mr. McCrae: Mr. Chairman, this is a housekeeping amendment as set out on the spreadsheet that I gave to the honourable member. Per diem charges for personal care have been levied for a long time in Manitoba. The definition of authorized charges, however, did not specifically identify personal care charges. The term “other health services” is defined in the act and is restricted to chiropractic, optometric, prosthetic, orthotic and dental surgery services.

Mr. Chomiak: Mr. Chairperson, does that mean that we have essentially been charging people per diems in personal care homes illegally?

Mr. McCrae: I do not think we have been—anybody, the previous government included—charging people illegally, but it is felt that we need to bring statutory authority into line with what has been the practice in Manitoba for many years.

Mr. Chomiak: Mr. Chairperson, then why is this provision going to be made retroactive?

Mr. McCrae: Mr. Chairman, as I said to the honourable member, the per diem charges have been levied for a number of years.

Mr. Chomiak: Yes, I recognize that, but we are now bringing in an amendment for a charge that has been levied, and we are making it retroactive. Does that not suggest that perhaps there was something inappropriate?

Mr. McCrae: I do not think it is inappropriate to want to subsidize care for people in personal care. We do it to the extent that we can as governments, the previous government did, and so is ours. I do not think there is anything wrong with trying to provide subsidies to elderly people in their time of need.

Mr. Chomiak: Mr. Chairperson, why are we changing the wording to go from "prescribed" in the regulations to "determine in accordance" with the regulations?

Mr. McCrae: Mr. Chairman, the charges being paid by residents are paid on the basis of their ability to pay. We believe that is an egalitarian way for us to provide these important services to people as opposed to services that are paid for by designated services, I think was what was going on. So what we now have is something that is based on a person's ability to pay, which we feel is much fairer than we have seen in previous schemes.

Mr. Chomiak: Mr. Chairperson, so I take it, from the minister's answer, it is not just a provision of a house-keeping nature to permit the charging or a per diem rate that has been charged since actually the personal care program was set up, but also to provide for the change in the way that the rate is assessed.

Mr. McCrae: I think, Mr. Chairman, it is to bring the legislation into conformity with the practice that has been underway now for some time.

Mr. Chomiak: Mr. Chairperson, but the practice changed substantially in 1993, so that is why the regulations are, in fact, retroactive to 1993, to permit that change. Is that not correct?

Mr. McCrae: Yes, Mr. Chairman. In 1993, a far fairer system was put into effect. Previously to that, there was less attention paid to the ability of elderly people, notably elderly people, but others as well in Manitoba to pay for their care. In 1993 we brought in changes that were more egalitarian and fairer in their nature. The changes took account of people's ability to pay which was not there before.

Mr. Chomiak: Mr. Chairperson, well, I will not get into a long debate about whether or not it is a far fairer system. I do want to make the point that this is not a mere housekeeping change. This is a relatively significant change to legislation to allow the government to (a) now, procedurally correct, charge for personal care homes, but more importantly, to charge a different level and a different rate of care, something the government commenced in 1993, but did not do so by way of regulation or by statute. So it is far more than a mere housekeeping change.

Mr. McCrae: I certainly hear what the honourable member is saying, but I hope by his comments he is not recommending that we start gouging poor people, because I do not want to do that.

Mr. Chomiak: The minister well knows my position in this regard and well knows that this would not be the suggestion. If the minister wants to discuss the ins and outs of the new formula that was put in in 1993 and recently changed, I mean, I am prepared to do that and debate the merits of the fairness of that system, but I can indicate that on principle, we will be voting against this amendment because of our disagreement with the government's style of applying the rate and the means by which it has been brought in.

* (2010)

Mr. Chairperson: With that, shall Clause 1(2)(1) and Clause 2(2) pass, on page one?

Mr. Chomiak: Mr. Chairperson, Clause 2(2) deals with—

Mr. Chairperson: I am sorry. You are quite correct, Mr. Chomiak. We are just dealing with page 1, and that is Clause 1 and 2(1). Shall they pass?

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: The Yeas have it.

* * *

Mr. Chomiak: A counted vote, Mr. Chairperson.

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 5, Nays 3.

Mr. Chairperson: It passes by a vote of 5 to 3.

Going to page 2 of the bill, Clauses 2(2) through 5(1).

Mr. Chomiak: Mr. Chairperson, at this point, I think it might be appropriate to break down the matter into clause by clause, if that would be—otherwise it will be very cumbersome.

Mr. Chairperson: Is that agreed by members of the committee? [agreed]

We will proceed then with Clause 2(2).

Mr. Chomiak: Mr. Chairperson, when I first had occasion to review this amendment, I was of the impression that it might provide more flexibility with respect to the minister providing coverage to someone who is here on an Immigration Act permit, but I see actually, in a careful reading of a spreadsheet that the minister has provided, that, in fact, this amendment would preclude the minister from providing medical coverage to an individual who is a resident in Manitoba and legally making their home here, or is that a misread of the spreadsheet the minister has provided me?

Originally, I thought it provided the minister with some discretion but having read the spreadsheet, I am now of the opinion, or it seems to me to read that the minister no longer has that discretion and will preclude those people from having privilege.

Mr. McCrae: What I needed, Mr. Chairman, was an example, and I have that now.

Under the current definition of resident, health coverage is available to anybody who is legally entitled to be in Canada and who makes his or her home in Manitoba. The federal minister of immigration issues ministerial permits for various reasons and various lengths of time, for example, students, temporary workers, people seeking medical services, medically inadmissible people, et cetera. Each class of ministerial permits is assigned a case type. At this time, we consider the persons holding certain case types of ministerial permits do not fall within our definition of resident. For example, a visa student does not fall within our definition. Without these changes, we do not have the legislative foundation we

think that we need. We need that amendment in order to clarify what is an existing policy.

Mr. Chomiak: So, at present, if someone is resident in Manitoba under a minister's permit presently, without this amendment, within various classes, do they or do they not qualify for coverage presently?

Mr. McCrae: The answer is maybe and maybe not, and that is why we need something in legislation to clarify that.

Mr. Chomiak: Does the minister have discretion under the present act to determine which class a person can obtain coverage for?

Mr. McCrae: There is nothing in the current legislation that allows the kind of discretion the honourable member is talking about.

Mr. Chomiak: Then the proposed definition for resident says: "2(1)(b) does not include a person who holds a minister's permit under the Immigration Act (Canada), unless the minister determines otherwise . . ."

So the minister gains discretionary power.

Mr. McCrae: Mr. Chairman, because of the different classes of permit, the federal minister, who has no accountability to the Manitoba health system, as we have learned, can impose upon provincial jurisdictions people who may or may not be appropriately a charge on our health system in the various provinces. Manitobans need to know that their health system is there for them when they need it.

If a federal minister should be designating people and imposing on provincial jurisdictions the responsibility to pay medical costs for people in his or her view ought to be entitled to such treatment, that does not leave in the hands of the province the power or the ability or the flexibility, or whatever you want to call it, to adjudicate on that matter.

We need legislation so that the provincial authorities can have some say over who it is that gets to benefit from our health care system. If the federal definition of someone who is a resident is extremely flexible and allows people who perhaps ought not to be receiving the

benefits of our health system, then we need something with which to clarify that.

Mr. Chomiak: So at present what status would that individual or that class of individuals fall in that the minister indicated? The minister, by way of example, talked about a class that may not be appropriate, determined by the minister to be receiving medical care but is determined by the minister as it presently exists before this amendment. What power does the minister now have with respect to that individual?

Mr. McCrae: At this time, all we have is policy. We do not have any statutory underpinning for any policy that we might bring forward to give the federal department any guidance whatsoever on where we might stand with regard to the federal designation of a resident for purposes of health care coverage.

* (2020)

Mr. Chomiak: So, by way of that same example, if the individual, for example, was here on a ministerial permit and was deemed medically unfit, for coverage under our medicare system, that individual could presently challenge the system and obtain coverage?

Mr. McCrae: That could be possible without these amendments.

Mr. Chomiak: Now, with the amendments, that person also could challenge, but it would be completely statutorily now in the discretion of the minister.

Mr. McCrae: There is nothing stopping anybody from challenging any legislation passed by anybody, whether it be federal, provincial, municipal, school board or First Nations. So a challenge is always there for someone, but you are not in very good shape if all you have to challenge is some policy. It would be better if you had a statute base to work from, and that would give the authority passing the statute something to rely on.

Mr. Chomiak: Which then gets me to my concerns about the spreadsheet the minister gave me where it says, and I quote, we may lose a challenge by a person refused registration because we did not expressly exclude such persons in the definition, which implies to me, therefore, that the proposal will be for more an exclusionary policy

rather than an inclusionary policy. That is the only way I can read it. Maybe the minister can explain to me otherwise.

Mr. McCrae: I can only, I guess, appeal to the honourable member's legal training and talk about the fact that a statutory underpinning to a particular policy of a government is a wiser thing to do than simply to have a policy. The honourable member chooses, I suggest, to say that this is designed to exclude people. Well, it could, by the same token, make sure that people's rights are guaranteed under our legislation. So you can have it either way you want, depending on which way you want to argue it, I guess.

Mr. Chomiak: To a certain extent, I agree with the minister on that analysis, but the legislation does read: "(b) does not include a person who holds a ministerial permit under the Immigration Act . . . unless the minister designates otherwise," so that the way it reads is that people who hold the ministerial permit are excluded unless the minister, for whatever discretionary concerns or policy he may have—and now the minister indicates it is policy—agrees that that person should be permitted the right to obtain medical service, and I have problems with that.

Mr. McCrae: Mr. Chairman, I can appreciate that the honourable member has problems. However, that is the situation now. That is the way it is now, with no statutory base, so that there is a better chance for those whom we all want to ensure get proper care when they are here in Manitoba, that they get it and that they cannot be stopped from getting it by some government, either now or in the future. On the other hand, it could be argued that some would be excluded by such a provision, whether in policy or in statute.

It is the appropriate balance that needs to be drawn, and the honourable member may indeed have concerns, but to proceed with a lack of statutory foundation seems to me is not a very good idea from a public policy point of view. I would think the honourable member would agree with that. Whether he agrees with the particular direction or whether he agrees with what he perceives to be our motive as a government, compared with his motive as a Health critic, that is a matter for debate, but here it is. It is before us, it reflects the policy presently in effect, and it codifies it.

Mr. Chomiak: Mr. Chairperson, then my concerns would be perhaps alleviated if the amendment read something like, calendar year, and includes a person—(b) did not say, but does not include a person who holds a minister's permit, and just has a discretionary section. I mean, we could still accomplish the same end by having just the discretionary section in (b), could we not?

Mr. McCrae: We rely, Mr. Chairman, on the skilful people we have to assist us in addressing, through the drafting function, the issues we need addressed in our legislation. I just cannot seem to bring myself to argue in favour of the kind of flexibility that would put in jeopardy the health services that we need to preserve for those who are entitled to it. The honourable member's comments seem to suggest that we ought to put at risk our health services, and I am not prepared to do that.

Mr. Chomiak: Mr. Chairperson, the minister's words give even greater concern by suggesting that somehow the provision of medical services to those who may be under Immigration Act permits would somehow jeopardize our health care system, which the minister said, we should not be discussing motive, but just does give me cause to be concerned about the motive of this particular amendment by virtue of that argument.

Mr. McCrae: I think maybe we have gone as far as we can with this, Mr. Chairman.

Mr. Chairperson: Shall Clause 2(2) pass?

An Honourable Member: No.

Voice Vote

Mr. Chairperson: All those in favour, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

Some Honourable Members: Nay.

Mr. Chairperson: The Yeas have it.

* * *

Mr. Chomiak: A counted vote, Mr. Chairperson.

An Honourable Member: Why did you not say on division?

Mr. Chomiak: Is it the same thing?

An Honourable Member: Yes.

Mr. Chomiak: On division.

Mr. Chairperson: Mr. Chomiak, on division with respect to Clause 2(2)—pass; Clause 3—pass; Clause 4—pass; Clause 5(1).

Mr. Chomiak: Mr. Chairperson, thank you for giving me time to collect my notes.

Our major concern with this particular amendment, this is where I am a little bit confused with respect to this amendment as it ties in with the amendment on regulation 116. Mr. Chairperson, I will wait for my comments till we get to sub 113(3).

Mr. Chairperson: 5(1)—pass; 5(2)—pass; Clause 6.

Mr. Chomiak: Mr. Chairperson, because the amendments are tied in, it is somewhat confusing, but at this point I want to indicate that we are also opposed to this particular amendment for some of the reasons enunciated previously with respect to changes made to The Pharmaceutical Act and the points made about changes to the prescription drug program previous, and that is that the power to make changes to the medical practitioners act will now be solely in the hands of the Minister of Health and taken from Order-in-Council and provided to the Minister of Health now.

In the spreadsheet the minister provided for me, it was indicated that this was to ease the administrative process pertaining to the agreement between the government and the MMA that was entered into several years ago. Essentially what this will permit the minister to do will be to make changes again to the act without recourse to the public and without public discussion other than that discussion that takes place between the minister and the MMA with respect to charges. I wonder if the minister might respond to that.

* (2030)

Mr. McCrae: We are having trouble figuring out what clause the honourable member is referring to, Mr. Chairman.

Mr. Chairperson: Mr. Chomiak, can you clarify that?

Mr. Chomiak: Yes, Mr. Chairperson, we are at sub 6 of the amendments, and it is

Section 116 is amended by adding the following after clause (f):

which is (g) respecting the manner of, and other details relating to, payments of benefits to—

Mr. McCrae: Mr. Chairman, I will read the rationale for the honourable member to put it on the record. The amendments to Sections 113 and 116 will provide for the transfer of regulation making power from the Lieutenant-Governor-in-Council to the minister for the purpose of the payments for insured medical services regulation, and that refers to the physicians fee guide, to ease the administrative process.

In this regard, there has been an increase in the frequency of changes, and that is because of the agreement that we have with the Manitoba Medical Association. These changes are required to administer the agreement between the government and the MMA. Two provinces, Alberta and Newfoundland, currently use ministerial regulation-making authority for this purpose. British Columbia issues a policy directive while the Northwest Territories and Yukon use a commissioner to approve fee guides.

I hope that somehow helps the honourable member, but there are changes in the fee schedule that get made because of our arrangements with the Manitoba Medical Association. These amendments provide for a more efficient administration of these changes.

Mr. Chomiak: I can indicate I had concerns even before I saw the rationale from the spreadsheet. The two points that I wish to make in this regard are, the first concern that again power will move from the Lieutenant-Governor-in-Council to the minister by regulation, which means we will be deprived of the opportunity of advance notice or notice post-Order-in-Council, again, to changes

and, secondly, what we have seen with respect to the MMA agreement. In fact, we are into year three of the agreement, which has seen a deinsuring of services, and the minister will agree that that provision in the act indicated that any changes in the fee structure should come out of the deinsuring of medical services, not from physician fee payments. So the minister will be able to put through changes, albeit agreed, it will have to come out in regulation, but that will be down the road. The minister will be able to cut deals and the public will not have access or input, just like what happened with the deinsurance of eye examinations, just like what happened with the deal with the chiropractors to cut down the available number of visits to chiropractors, just like will likely happen in terms of the physical examination provision that the minister conditionally approved last year, but just conditionally, with respect to changes to the deinsuring of physical examinations for men between the ages of 16 and 64, and what this permits the minister to do by fiat in a closed-door session is to change the application of medicare.

Now, the minister indicates, it is for administrative purposes, and I say the track record indicates it is not merely for administrative purposes, but it is for the purposes of the government moving with regard to its view of health reform that will see additional deinsuring and will see additional changes that will not be, in our opinion, in the best interests of Manitobans.

We cannot support the amendment on the principle earlier enunciated of power moving, and we cannot support it in terms of the government track record in regard to the insuring of medical services. We have grave concerns about this particular amendment, and we certainly cannot support this provision.

Mr. McCrae: It is clear the honourable member has put his position very succinctly and cogently, but not convincingly, if that adds up properly. I do not think the honourable member supports this amendment. I do not think there is any amount of talking I can do that will make him feel differently about it.

Mr. Chairperson: Shall Clause 6 pass?

Some Honourable Members: Pass.

An Honourable Member: No.

Mr. Chairperson: On division?

An Honourable Member: On division.

Mr. Chairperson: Clause 6—pass; Clause 7—pass; Clause 8—pass; Preamble—pass; Title—pass.

Voice Vote

Mr. Chairperson: On the question, shall the bill be reported, all those in favour, say yea.

Some Honourable Members: Yea.

Mr. Chairperson: All those opposed, say nay.

An Honourable Member: Nay.

* * *

A COUNT-OUT VOTE was taken, the result being as follows: Yeas 6, Nays 3.

Mr. Chairperson: The majority have it on the basis 6 to 3, and the bill accordingly shall be reported.

Bill 13—The Highway Traffic Amendment Act (Lighting on Agricultural Equipment) Act

Mr. Chairperson: Does the minister responsible have a brief opening statement?

Hon. Glen Findlay (Minister of Highways and Transportation): Mr. Chairman, very briefly, I know that the opposition supports this bill. This bill is necessary because of certain tragic accidents that happened involving farm equipment at night in rural Manitoba. We set up a committee that has very broad representation of farm groups, safety groups and RCMP. They came forward with recommendations which we are embodying in this particular bill. Thank you.

Mr. Chairperson: Does the critic from the official opposition have a brief opening statement?

Mr. Gerard Jennissen (Flin Flon): Yes, Mr. Chairman, merely to reiterate what was said at second reading that we do indeed support the minister and the government with these amendments. I think they are long

overdue and we look forward to passing them expeditiously through this committee stage.

Mr. Chairperson: Clauses 1 and 2 on page 1—pass; Clauses 3 and 4(1) on page 2—pass; Clauses 4(2), 4(3), 5, 6 and 7 on page 3—pass; Clause 8—pass; Preamble—pass; Title—pass. Bill be reported.

* (2040)

Bill 20—The Highway Traffic Amendment (Miscellaneous Provisions) Act

Mr. Chairperson: Does the minister responsible have brief opening statement?

Hon. Glen Findlay (Minister of Highways and Transportation): Mr. Chairman, the amendments we are proposing here are really of a housekeeping nature, involving emergency vehicles, traffic control, general penalty and mandatory provisions. Most of these changes came as a result of requests from the association of fire chiefs, the Fire Commissioner's office, City of Winnipeg Fire Department, law enforcement groups and Manitoba Public Insurance. We are bringing them forward to enact. A lot of them are catching up with the technology that is out there in the way things are done.

Mr. Chairperson: Does the critic for the official opposition party have a brief opening statement?

Mr. Gerard Jennissen (Flin Flon): Mr. Chairman, only to state that as with the previous bill at second reading we supported these amendments. I think they are long overdue, and we look forward to its passing here.

Mr. Chairperson: Shall Clauses 1 and 2 on page 1 pass?

Mr. Dave Chomiak (Kildonan): Mr. Chairperson, I know the Minister of Health (Mr. McCrae) who is also in attendance will be curious about this question, too. Does this act apply to those vehicles generally that we define as stretcher bearer services? Does that fall under the definition of "emergency vehicle" under this act?

Mr. Findlay: Mr. Chairman, they are not ambulances, so they are not covered under this particular act.

Mr. Chairperson: Clauses 1 and 2 on page 1—pass; Clauses 3 and 4(1) on page 2—pass; Clauses 4(2), 5(1), 5(2) and 6 on page 3, 4 and 5—pass; Clauses 7, 8, 9(1) and 9(2)—pass; Clauses 9(3), 9(4), 9(5)—pass; 9(6) and 10—pass; Clauses 11, 12(1), 12(2), 12(3) and 12(4)—pass; Clauses 12(5), 13 and 14—pass; Clauses 15(1), 15(2) and 16—pass; Clause 17—pass; Clause 18—[interjection]

I am informed that the amendment proposed, which is being distributed, comes after Clause 18.

Mr. Findlay: No, no. It is 18(1).

Mr. Chairperson: I am corrected. The honourable minister says it is 18(1), so it indeed is part of what was 18.

Mr. Findlay: Mr. Chairman, I move

THAT the following be added after section 18 of the Bill:

Consequential amendment

18.1 If, during the second session of the 36th Legislature, Bill 37 entitled The Ambulance Services Amendment Act is assented to, the definition “ambulance service” in clause 2(b) of this Act is repealed, and the following definition is substituted:

“ambulance service” means an emergency medical response system licensed under The Emergency Medical Response Act;

[French version]

Il est proposé que le projet de loi soit amendé par adjonction, après l'article 18, de ce qui suit:

Modification corrélative

18.1 Si, au cours de la deuxième session de la trente-sixième législature, le projet de loi 37, intitulé Loi modifiant la Loi sur les services d'ambulance, est sanctionné, la définition de “service d'ambulance”, à l'alinéa 2b) de la présente loi, est remplacée par ce qui suit:

“service d'ambulance” Entreprise d'intervention médicale d'urgence qui est titulaire d'un permis délivré en application de la Loi sur les

interventions médicales d'urgence. (“ambulance service”)

Mr. Chairperson: Okay, it has now been clarified that this is 18.1, which will be a new section under section 18.

Mr. Chairperson: Amendment—pass; Clause 19(1)—

Mr. Findlay: Mr. Chairman, I move

THAT section 19 be amended

(a) in subsection (1), by adding “and 18.1” after “section 18”; and

(b) by adding the following after subsection (2):

Coming into force: section 18.1

19(3) Section 18.1 comes into force on the day The Ambulance Services Amendment Act, Bill 37 of the second session of the 36th Legislature, comes into force.

[French version]

Il est proposé que l'article 19 du projet de loi soit amendé:

a) au paragraphe (1), par substitution, à “de l'article 18”, de “des articles 18 et 18.1”;

b) par adjonction, après le paragraphe (2), de ce qui suit:

Entrée en vigueur de l'article 18.1

19(3) L'article 18.1 entre en vigueur en même temps que la Loi modifiant la Loi sur les services d'ambulance, projet de loi 37 de la deuxième session de la trente-sixième législature.

Mr. Chairperson: Amendment—pass; Clause 19(1) as amended—pass; Clause 19(2)—pass.

Mr. Findlay: You passed Section 19(2). Mr. Chairman, I move

THAT the Legislative Counsel be authorized to change all section numbers and internal references necessary to carry out the amendments adopted by this committee.

[French version]

Il est proposé que le conseiller législatif soit autorisé à modifier les numéros d'article et les renvois internes de façon à donner effet aux amendements adoptés par le Comité.

Mr. Chairperson: Amendment—pass; Preamble—pass; Title—pass. Bill as amended be reported.

Bill 300—The Salvation Army Catherine Booth Bible College Incorporation Amendment Act

Mr. Chairperson: Now we have a private members bill. Does the member sponsoring the bill have a brief opening statement? The bill in question is Bill 300, The Salvation Army Catherine Booth Bible College Incorporation Amendment Act, which is a private bill.

We will first hear the report from Legislative Counsel and then from the member.

Ms. Valine Perry (Legislative Counsel): As required by Rule 123 of the Provisional Rules of the House, I now report that I have examined Bill 300, The Salvation Army Catherine Booth Bible College Incorporation Amendment Act, and have not noted any exceptional powers sought or any other provision of the bill requiring special consideration.

Mr. Chairperson: Does the member sponsoring the bill have a brief opening statement?

Mr. Marcel Laurendeau (St. Norbert): Mr. Chairman, I have passed out my statement to the members of the committee. I would ask that it be taken as read.

Mr. Chairperson: Is there agreement that the submission in writing by Mr. Laurendeau be taken as read? [agreed]

Mr. Dave Chomiak (Kildonan): Mr. Chairperson, I was going to thank the member for St. Norbert (Mr. Laurendeau) for an outstanding job of providing us the background information, and I was going to suggest that perhaps for the benefit of all members and members in the visitors gallery here that perhaps we ought to read the excellent proposal he put together.

Mr. Chairperson: I notice that the members of the visitors gallery are leaving in great numbers. Does that cause the honourable member to change his mind? So the submission shall then be read into the record as if presented orally? [agreed]

Do any other members wish to make a brief opening statement, or is that you, Mr. Chomiak, in that initial remark? Thank you.

Clauses 1, 2, 3 and 4—pass; Preamble—pass; Title—pass. Bill be reported.

I understand there is a motion for the refund of fees.

Mr. Laurendeau: Mr. Chairman, I move

THAT this committee recommends that the fees paid with respect to Bill 300, The Salvation Army Catherine Booth Bible College Incorporation Amendment Act, be refunded, less the cost of printing.

[French version]

QUE le Comité recommande que soient remboursés les droits payés à l'égard du projet de loi no 300—Loi modifiant la Loi constituant en corporation le Collège biblique Catherine Booth de l'Armée du Salut—, moins les frais d'impression.

Motion agreed to.

Mr. Chairperson: The time is now 8:50 p.m. Is it the will of the committee to adjourn? [agreed]

COMMITTEE ROSE AT: 8:50 p.m.

WRITTEN SUBMISSION PRESENTED BUT NOT READ

Bill 300 - The Salvation Army Catherine Booth Bible College Incorporation Amendment Act

Throughout the history of the Salvation Army, the officer has been trained at the College for Officer Training. In 1981, the Catherine Booth Bible College opened its doors to prepare lay people for a variety of ministries within the corps and churches of the Salvation

Army, as well as the marketplace. Many of the students have moved into church-related ministries upon graduation.

There is, however, a growing awareness among many of the students at the college that university education will play a significant role in preparation for their vocational life. For that reason, Catherine Booth Bible College has entered into an Approved Teaching Centre arrangement with the University of Manitoba. In this unique arrangement, students may obtain university credits that are readily transferable. Although this has proved helpful and some of the colleges graduates have gone on directly to seminary or graduate studies, many universities, organizations and government agencies will not recognize Bible college degrees.

Within the Bible college movement, there is a growing awareness that the traditional understanding of the movement generates an inadequate perception of the degree obtained. For that reason, it is difficult for students to use their years of study as the foundation for further education. The Board of Trustees of the Catherine Booth Bible College recognized the reluctance of institutions to recognize Bible colleges, and the trends within the Bible college movement itself has therefore recommended a name change.

The board has reminded the president that the principles of solid biblical and theological teaching

within a Christian context must be maintained. The college must always be an institution of biblically centred higher education. The college will therefore maintain its commitment to preparing young people for Christian life and services.

The Salvation Army is satisfied that the proposed name, William and Catherine Booth College honours the founders of the Salvation Army and reflects the true nature of the institution.

They feel that William Booth, the pragmatist, would approve of the extensive internship and practicum experiences provided by the college. In a variety of practical situations, these experiences, while providing an education for our students, also ministers to the social and spiritual needs of the recipients.

They also believe that Catherine Booth, an avid Bible student, would certainly endorse the college's academic programs which are taught by highly qualified faculty members who uniquely combine both teaching skills and scholarship.

The William and Catherine Booth College will continue to maintain the standards of the Accrediting Association of Bible Colleges and, as such, will, along with the Salvation Army distinctive, incorporate scripture and theology in the programs offered.

Mr. Marcel Laurendeau, MLA, St. Norbert